

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GENE IRVING GARLAND, JR.,

Plaintiff,

VS.

UNITED STATES ATTORNEY FOR
THE NORTHERN DISTRICT OF
TEXAS, et al.,

Defendants.

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Civil Action No. 3:03-CV-2658-D

ORDER


After making an independent review of the pleadings, files, and records in this case, and the report and recommendation of the magistrate judge, the court concludes that the report and recommendation are correct and are therefore adopted.

In adopting the report and recommendation, the court reaches the arguments of defendant Sheila Powell (“Powell”) that are addressed to the merits of plaintiff’s remaining claim. The court agrees with the magistrate judge that Powell is entitled to dismissal on the basis that she has not been properly served. If the court were to rely on that ground alone, however, it might be obligated to give plaintiff additional time to effect service. For reasons the magistrate judge correctly explains

in his report and recommendation, Powell is entitled to dismissal based on limitations and to summary judgment as to the claim that remains against her. The court therefore dismisses plaintiff's action on these grounds as well.

SO ORDERED.

April 3, 2006.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE